



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2001 SB 1

**Senate Substitute
Amendment 1, as Amended by
Senate Amendment 1**

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Senate Bill 1 creates a prescription drug assistance program for Wisconsin residents. Senate Substitute Amendment 1 to the Bill, as amended by Senate Amendment 1, is described below.

SENATE SUBSTITUTE AMENDMENT 1

PROGRAM ELIGIBILITY

Senate Substitute Amendment 1 creates a program, beginning March 1, 2002, which provides assistance in purchasing prescription drugs to Wisconsin residents who are at least age 65, not Medical Assistance (MA) recipients, and have an annual household income, as determined by the Department of Health and Family Services (DHFS), that does not exceed 300% of the federal poverty line for a family the size of the person's eligible family. For 2000, this was \$25,050 annually for a family of one person and \$33,750 for a family of two. There is also a program enrollment fee of \$20 per 12-month benefit period.

If a person has household income that *exceeds* 300% of the federal poverty line, the person may become eligible for the program if they incur prescription drug costs which, when deducted from income, brings the person's annual household income down to 300% of the federal poverty level. The person must also meet the other program eligibility criteria.

Under the substitute amendment, prescription drugs available to program participants are those that are subject to rebate agreements entered into between the drug's manufacturer and DHFS.

DEDUCTIBLES AND COPAYMENTS

Program participants are required to pay the following deductibles for each 12-month benefit period:

1. A person whose annual income is 175% or less of the federal poverty level pays no deductible.
2. A person whose annual income does not exceed 300% of the federal poverty line must pay a deductible of \$500.
3. A person whose annual household income exceeds 300% of the federal poverty line must pay a deductible that equals the difference between the person's annual household income and 300% of the federal poverty line for a family the size of the eligible person's family. Once the person satisfies this deductible in each 12-month benefit period and reaches 300% of the federal poverty level, the person would then be subject to the same \$500 deductible as the person under 2., above.

Once the deductibles, if any, are met, a participant in the prescription drug assistance program must pay a copayment of \$5 for each prescription of a generic drug, and a copayment of \$10 for each prescription of a brand name drug.

Program participants who have insurance coverage for prescription drugs may only receive the program's benefits for prescription drug costs that are not covered under the person's insurance coverage.

COST OF PRESCRIPTION DRUGS

Under the program, as a condition of a pharmacy or pharmacist participating in the MA program, the pharmacy or pharmacist may not charge a person enrolled in the program whose income does not exceed 300% of the federal poverty level an amount for prescription drugs that is more than the MA rate plus 5% to meet the \$500 deductible, plus a dispensing fee which is equal to the MA dispensing fee. After the deductible is met, the pharmacy or pharmacist may only charge the copayment of \$5 (or \$10 for a nongeneric drug). No dispensing fee may be charged once the deductible is met.

A pharmacy or pharmacist may charge a person who is enrolled in the program whose income exceeds 300% of the federal poverty level the retail price for the prescription drug to meet the first part of the deductible (i.e., the part of the deductible that is the difference between the person's annual income and 300% of the federal poverty line). Once that deductible is met, the person is subject to the same \$500 deductible applicable to persons with a household income that does not exceed 300% of the federal poverty level. Once the \$500 deductible is met, only the copayment of \$5 (or \$10 for a nongeneric drug) may be charged. No dispensing fee may be charged once the deductible is met.

DEPARTMENT OF HEALTH AND FAMILY SERVICES RESPONSIBILITIES

DHFS must perform several administrative duties in conjunction with the program, including the following:

1. Provide a rebate agreement to a drug manufacturer that sells prescription drugs in Wisconsin which is modeled on the rebate agreement under the federal MA program. The rebate agreement, entered into with DHFS, must provide that the manufacturer must make rebate

payments for each prescription drug that is prescribed for and purchased by eligible persons to the State Treasurer, to be credited to the appropriation to the DHFS for these rebates.

2. Beginning March 1, 2002, provide payments to pharmacies and pharmacists for prescription drugs sold by them to program participants who have paid any required deductible. The payment for each prescription drug is at the MA rate plus 5%, minus any copayment, plus the dispensing fee. If applicable, the DHFS may add any incentive payments similar to those provided under the current MA program.
3. Promulgate rules relating to prohibitions on fraud that are similar to the prohibitions on fraud that are applicable under the current MA program. A person convicted of violating such a rule in connection with furnishing prescription drugs may be fined not more than \$25,000, or imprisoned not more than seven years and six months, or both. A penalty of a fine not more than \$10,000 or imprisonment no more than one year, or both, is imposed for rule violations not in connection with the person's furnishing of prescription drugs.
4. In the event that the federal government begins to provide coverage for prescription drugs as a benefit under Medicare or provides some other similar coverage, submit an analysis to the Legislature's standing committees of the differences between such a federal program and the state prescription drug assistance program created in the substitute amendment.

ADMINISTRATIVE COSTS

The substitute amendment appropriates \$1 million in general purpose revenue (GPR) in fiscal year 2001-02 to DHFS for administration of the program. Further, the substitute amendment appropriates an additional \$1 million in GPR to the Joint Committee on Finance and authorizes DHFS to submit a proposal for review and approval by the Department of Administration and by the Joint Committee on Finance, for expenditure of these moneys.

FISCAL EFFECT

According to the Legislative Fiscal Bureau, the projected cost for the prescription drug assistance program created in the substitute amendment is approximately \$105.9 million GPR annually. The substitute amendment creates a sum sufficient GPR appropriation for this program.

SENATE AMENDMENT 1 TO SENATE SUBSTITUTE AMENDMENT 1

Senate Amendment 1 requires the DHFS to provide information by mail about Health Insurance Risk Sharing Program (HIRSP) eligibility and how to apply for HIRSP to state residents covered by Medicare due to disability and who are not covered under HIRSP. This would apply to the extent permitted by federal law.

Senate Substitute Amendment 1, as amended by Senate Amendment 1, was adopted and passage of the bill as amended, was recommended by the Senate Committee on Health, Utilities, Veterans and Military Affairs, Ayes, 5; Noes, 4; on January 23, 2001.